

ESSEX COUNTY SHERIFF'S DEPARTMENT

103 ECSD 981.00 PRISON RAPE ELIMINATION ACT

Section

981.01	Purpose
981.02	Cancellation
981.03	Applicability
981.04	Access to Regulations
981.05	Policy
981.06	Definitions
981.07	Prevention
981.08	Reporting
981.09	Response to an Allegation
981.10	Incident Review
981.11	Training
981.12	Discipline
981.13	Retaliation
981.14	Review Date
981.15	Severability Clause

981.01 Purpose

The purpose of this document is to establish guidelines for the prevention, detection, reporting, response, investigation and tracking of all sexual assaults.

981.02 Cancellation

103 ECSD 981.00 cancels all previous rules and regulations, policy statements, bulletins, directives, orders and notices regarding PREA

981.03 Applicability

This policy applies to all employees, contractors, vendors, volunteers and student interns of the Essex County Sheriff's Department.

981.04 Access to Regulations

103 ECSD 981.00 shall be maintained within the Essex County Sheriff's Department central policy file and accessible to all staff and inmates.

981.05 Policy

It is the policy of the Essex County Sheriff's Department to be in compliance with the Prison Rape Elimination Act (PREA). To that end, the Essex County Sheriff's Department is committed to a zero tolerance policy regarding sexual assaults to include

ESSEX COUNTY SHERIFF'S DEPARTMENT

sexual harassment, whether inmate on inmate or staff on inmate. All intentional acts of a sexually abusive behavior (to include sexual harassment) or intimacy between an inmate and a Sheriff's Department employee, vendor, volunteer, or between an inmate and another inmate regardless of consent, are prohibited and the perpetrator shall be subject to administrative, criminal and/or disciplinary sanctions. The Sheriff's Department is committed to investigating, disciplining and referring for prosecution the Sheriff's Department employees, vendors/contractors, volunteers and inmates who engage in sexually abusive behavior.

This policy is intended to:

- Increase the timely reporting of incidents of sexual abuse
- Develop and maintain a process to identify and manage inmates that are identified as potentially at risk
- Provide training to Sheriff's Department employees, vendors, contractors, volunteers outlining their responsibilities toward prevention, intervention and reporting when incidents are observed or brought to their attention.
- Provide effective and ongoing orientation to inmates to avoid being victimized and how to report incidents of sexual abuse
- Provide treatment for victims

981.06 Definitions

Allegation: A statement made claiming that sexual abuse has occurred or might occur.

At Risk: Inmates who exhibit characteristics consistent with potential victims or perpetrators of sexually abusive behavior.

Massachusetts Staff Sexual Misconduct: MGL c268 § 21A – This law removes the ability of an inmate in any correctional institution to consent to engage in sexual relations with any Sheriff's Department employee, contractor/vendor or volunteer. Violation of this statute is a felony with a term imprisonment of up to five years or a fine of up to \$10,000.

PREA: Prison Rape Elimination Act: Federal legislation (Public Law No. 108-79), enacted in 2003 to provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.

SANE: (Sexual Assault Nurse Examiner): Provides necessary medical care and ensures medical intervention to victims of assault who are examined at designated emergency hospital.

Sexual abuse: Includes but is not limited to subjecting another person who is incapable of giving consent due to the custodial status to sexual contact by persuasion, inducement, enticement or forcible compulsion.

ESSEX COUNTY SHERIFF'S DEPARTMENT

Sexual Assault Investigator: Sheriff's Department employee assigned by the Superintendent to investigate allegations of sexually abusive behavior

Sexual conduct: means intercourse between male and female; anal intercourse, fellatio, and cunnilingus between person regardless of sex. Penetration, however slight, of any part of the body, or instrument, apparatus, or other object into the vaginal/anal cavity of another.

Sexual contact: Includes but is not limited to carnal knowledge, sodomy, sexual assault with an object or sexual fondling or molestation of a person.

Sexual Misconduct: includes any sexual behavior that is directed towards any person. It includes, but is not limited to, any acts or attempts to commit acts which involve sexual contact, intimate relationships, sexual abuse, or assault, harassing or an invasion of privacy.

Staff sexual misconduct: any verbal, physical or offensive conduct of a sexual nature by a Sheriff's Department employee, vendor/contractor, or volunteer directed toward an inmate under the care, custody and supervision of the Sheriff's Department. Prohibited sexual acts include attempt, threat, request or the completed act of touching of the genitalia, anus, groin, breast, inner thigh, or buttocks either directly or through clothing, with the intent to abuse, arouse, or sexually gratify. Examples of sexual harassment include, but are not limited to, demeaning references to inmate's gender, derogatory comments about inmate's body, jokes about sex or gender specific traits, abusive, threatening, profane or degrading sexual comments, touching, or conduct of a sexual nature or threats of retaliation for refusing sexual advances. All sexual contact between an inmate and employee, contractor, vendor, volunteer is considered sexual misconduct even if the inmate "consents" because inmates are incapable of consent.

Voyeurism: An invasion of an inmate's privacy by staff for reason unrelated to official duties or when otherwise not necessary for safety and security reason, such as peering at an inmate who is using the toilet.

981.07 Prevention

All Sheriff's Department employees, contractors, vendors and volunteers are responsible for contributing to the prevention of sexually abusive behavior by staff on inmate, inmate on staff or inmate on inmate.

Inmates are responsible for familiarizing themselves with the inmate handbook including the material on sexual abuse prevention and intervention. It is the responsibility of the inmate to report the allegations of sex abuse within a timely manner to ensure their safety and the safety of others.

It is the responsibility of the Sheriff's Department to plan and implement measures to prevent the occurrence of sexually abusive behavior. The Sheriff's Department is

ESSEX COUNTY SHERIFF'S DEPARTMENT

committed to a safe environment for staff and inmates, free from sexual harassment and exploitation.

A) Education:

Upon admission to the Essex County Correctional Facility, all inmates will receive written information outlining the Sheriff's Department zero-tolerance policy regarding sexual abuse and sexual harassment and how to report any incidents of a sexual nature.

B) Orientation

Within 30 days of admission to the Essex County Correctional Facility, all inmates will be required to attend inmate orientation. Inmate Orientation will inform inmates about prisoner sexual violence. It will include prevention, intervention, self-protection, reporting sexual abuse/assault/harassment and treatment.

C) Screening

All inmates will be screened upon admission to the Essex County Sheriff's Department for a history of sexually assaultive behavior or for being at risk of sexual victimization.

Any indications of sexually assaultive behavior, either as victim, predator, or being labeled as "at risk," the Shift Supervisor, along with medical and classification are to be notified to be sure all appropriate steps are then followed.

981.08 Reporting

Inmates are strongly urged to report sexual abuse, harassment, retaliation and staff neglect or violation of responsibilities that may have contributed to such incidents.

A telephone hotline has been set up through the inmate telephone system that will allow the reporting of any contact of a sexual nature with other inmates, staff, volunteers and contractors. All inmates can access this number through the unit telephone system.

The Essex County Sheriff's Department requires all employees, contractors/vendors, and volunteers to immediately report any knowledge, suspicion or any information of incidents of sexual abuse or sexual harassment that occurred in the facility. Any staff members who has information regarding an incident of a sexual nature will report the matter in a timely and appropriate manner to the Shift Supervisor.

Upon receiving information that an inmate was sexually abused while being housed at another facility, the institution where the alleged incident occurred will be notified no longer than 72 hours after receiving the information.

981.09 Response to an Allegation

Immediately upon receiving the information, the Shift Supervisor shall immediately separate the victim from the alleged assailant. The crime scene shall be preserved until the Sexual Assault Investigator can conduct an investigation.

A) Medical:

A health care professional shall evaluate the extent of the injuries and provide treatment as needed. Mental Health shall be notified following the medical evaluation. Upon completion of the medical/mental health evaluation, the determination will be made to send the victim to an outside hospital with a SANE program for treatment.

B) Investigation:

The incident will be turned over to the Sexual Assault Investigators and will be investigated promptly. The investigation will be conducted in such a way as to maintain strict confidentiality. The investigation will include a private interview with the person filing the complaint, the harasser and any witnesses. Upon completion of the investigation, both the person filing the complaint and the person alleged to have committed the inappropriate behavior will be informed of the results.

C) Report Writing:

A detailed report, including the documentation of immediately separating the victim and assailant shall be completed and forwarded to the Shift Supervisor no later than the end of the shift. All reports will be marked "confidential." In addition the report written, the Shift Supervisor shall notify the following staff: Superintendent, Assistant Superintendent to immediately notify them of the incident.

981.10 Incident Review

Within 30 days of the conclusion of the investigation, the Superintendent or his designee shall conduct a sexual abuse incident review. This shall include, but not be limited to, the Classification process prior to the assault for both the victim and the perpetrator, events leading up to assault, action taken when the assault was reported, Medical, report writing, investigation process, post investigation classification process and follow-up services provided to the victim.

981.11 Training

The training department will develop and maintain course material to ensure that all Essex County Sheriff's Department employees, contactors/vendors and volunteers are

ESSEX COUNTY SHERIFF'S DEPARTMENT

educated regarding their responsibilities to prevent and report incidents of sexually abusive behavior. The training department will document that all employees, contractors/vendors and volunteers understand the training they received.

981.12 Discipline

A) Staff

Staff shall be subject to disciplinary action, up to and including termination for violating department sexual abuse and sexual harassment policies. Disciplinary sanctions shall be appropriate to the nature and circumstances of the acts committed.

B) Contractors/Volunteers

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with inmates and shall be reported to law enforcement agencies. Further action may be taken prohibiting their presence on department property.

C) Inmates

Inmate shall be subject to a disciplinary hearing following an investigation finding that the inmate engaged in inmate-on-inmate sexual abuse.

981.13 Retaliation

Retaliation by any employee against another employee, contractor/vendor, volunteer or an inmate for reporting complaints of sexually abusive behavior, assisting in making such a report, or for cooperating in the investigation of such a complaint regardless of the outcome of the complaint is prohibited. Any such occurrence is a serious matter that may result in discipline, up to and including termination in accordance with 103 ECSD 107, Prevention and Elimination of Harassment.

981.14 Review Date

This policy shall be reviewed annually from the effective date.

981.15 Severability Clause

If any article, section, subsection, sentence, clause or phrase of 103 ECSD 981.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Sheriff or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of this policy.